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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,808	12/21/2000	Ron Pinkus	111039-00110	6423
27557	7590	09/06/2006	EXAMINER	
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			THEIN, MARIA TERESA T	
			ART UNIT	PAPER NUMBER

3627

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,808

Applicant(s)

PINKUS, RON

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 13, 2006 has been entered.

Response to Amendment

The "Request for Continued Examination" filed on June 13, 2006 has been considered.

Applicants' response by virtue of amendment to claims 1 and 2 has overcome the Examiner's rejection under 35 U.S.C. § 112, first paragraph.

Claims 1 and 2 are amended. Claims 1-10 and 12-13 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 9-10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and in view of U.S. Patent No. 5,339,000 to Basban et al.

Regarding claim 1, Janning discloses a plurality of fuel dispensers (col. 6, lines 19-21; col. 8, lines 10-12), each dispenser having at least one antenna and at least one vehicle presence detector performing a detection of a vehicle (col. 6, lines 22-29; Figure 2; col. 7, lines 60-62); a controller reading information from a tag connected to the vehicle when the vehicle is detected by said at least one vehicle presence detector (col. 6, lines 29-36; col. 8, lines 4-19); and a point of sale computer (col. 6, lines 45-47). Furthermore, Janning discloses a tag interrogator (col. 8, lines 20-28; col. 8, lines 53-56).

However, Janning does not explicitly disclose wherein the stationary vehicle is detected by: setting a timer, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary. Janning discloses a cashless business transaction system comprising: a constant frequency generator that generates a constant frequency signal, a phase modulator varies the instantaneous phase of the constant frequency signal based on the digital information, and a resonant circuit including an antenna averages the phase modulated signal to simulate a frequency modulated signal that includes the digital information (col. 3, lines 45-52). Janning discloses a dispenser transceiver receives signals for predetermined time duration in an attempt to receive an acknowledgement of the interrogation signal (col. 8, lines 24-28). Once the receive cycle of a poll has

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completed, the received information, if any, is correlated with the pre-established acknowledgement sequence in accordance with known techniques to determine whether a receptacle transceiver is present (col. 8, lines 28-32).

Basban, on the other hand, teaches wherein the stationary vehicle is detected by: setting a timer, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary (col. 8, lines 43-46; col. 9, line 48-col. 10, line 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Janning, to include wherein the stationary vehicle is detected by: setting a timer, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary, as taught by Basban, in order to verify the validity of the response of the vehicle's identify for generating a validity signal indicative of the fact that that the vehicle is validly parked (stationary) (Basban, col. 8, lines 8-11).

Regarding claims 2, 5-7, 9-10, and 12-13, Janning discloses a unique customer identification number (col. 9, lines 36-40) (**claim 2**); the controller is connected to the point of sale device (**claim 5**) (col. 6, lines 43-47); a network host receiving the information from the point of sale device, linking the information to a customer's account and authorizing a transaction (**claim 6**) (col. 6, lines 43-53; col. 10, lines 21-26); the point of sale device activates the first dispenser after a transaction has been authorized (**claim 7**) (col. 6, lines 43-53; col. 10, lines 21-26); tag is a sticker radio frequency identification tag (col. 7, lines 15-25; col. 6, lines 8-14) (**claim 9**); wherein before

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activating the first dispenser the point of sale device validates the tag and offers a customer an option to pay through an account associated with the customer (**claim 10**) (col. 9, lines 28-52; col. 9, line 59 – col. 10, line 7; col. 10, lines 21-26); wherein data is written to the tag for authentication (col. 28, lines 33-39; col. 29, lines 48-58) (**claim 12**); wherein data is written to the tag with information to be carried with the tag for use in future transaction (col. 7, lines 30-35; col. 7, lines 45-56) (**claim 13**).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and U.S. Patent No. 5,339,000 to Basban et al. as applied to claim 2 above, and further in view of U.S. Patent No. 6,343,241 to Kohut et al. Janning and Basban substantially discloses the claimed invention, however, the combination does not disclose the customs frequent purchase information.

Kohut, on the other hand, teaches the customs frequent purchase information (col. 8, lines 45-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Janning and Basban, to include the customers frequent purchase information, as taught by Kohut, in order to change or add data to the transponder (tag) for business and security purposes (Kohut, col. 8, lines 45-47).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and U.S. Patent No. 5,339,000 to Basban et al. as applied to claim 2 above, and further in view of U.S. Patent No. 6,157,871 to Terranova. Janning and Basban substantially discloses the claimed invention,

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however, the combination does not disclose a customer enters a personal identification number in the point of sale device to authorize transaction.

Terranova, on the other hand, teaches the customer enters a personal identification number in the point of sale device to authorize transaction (col. 29, lines 43-51).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Janning and Basban, to include the customer enters a personal identification number in the point of sale device to authorize transaction, as taught by Terranova, in order to complete a transaction (Terranova, col. 27, lines 56-57).

Response to Arguments

Applicant's arguments with respect to claims 1-10 and 12-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,313,737 to Freeze et al. discloses a system and method to store a sequence of data records relating to attributes of interactions between fuel dispensers and tags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot *mjd*
September 4, 2006

Ronald Aronson
Primary Examiner